

# EXHIBIT R

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X	:	
	:	
IN RE: ORAL PHENYLEPHRINE MARKETING:	:	
AND SALES PRACTICES LITIGATION	:	23-md-3089-BMC
-----	:	
	:	
THIS DOCUMENT APPLIES TO:	:	<b>DECLARATION OF</b>
	:	<b>DARREN T. KAPLAN</b>
ALL CASES	:	
	:	
-----X	:	

**DECLARATION OF DARREN T. KAPLAN IN SUPPORT OF THE CONSENSUS LEADERSHIP GROUP’S MOTION FOR APPOINTMENT OF INTERIM CLASS COUNSEL**

I, Darren T. Kaplan, declare as follows:

1. I am a partner in the law firm Kaplan Gore LLP (“KG”). I am a member in good standing of the bars of the States of Connecticut, Georgia, and New York, and am admitted to practice in this District. I am the original counsel for Plaintiff Sandra Yousefzadeh in the first-filed case in this District, *Yousefzadeh v. Johnson & Johnson Consumer, Inc.*, No. 2:23-CV-06825.

2. I respectfully submit this declaration in support of the Consensus Leadership Group’s proposed leadership structure for this multidistrict litigation and for my appointment as Interim Class Counsel as a Plaintiffs’ Steering Committee member within that structure. Except as otherwise noted, I have personal knowledge of the facts set forth in this Declaration, and I could testify competently to them if called upon to do so.

**I. Background and Experience**

3. I graduated from the Maurice A. Deane School of Law at Hofstra University in 1991. My first job after admission to the bar was with a law firm that became outside counsel to the National Credit Union Administration Board, which liquidated the Amalgamated Taxi Federal Credit Union in Queens, New York shortly after I joined the firm. As a result, over the

next three years, I worked on more than a dozen cases venued in the Eastern District of New York and appeared before every Magistrate Judge and almost every sitting District Judge in both Brooklyn and the former Long Island courthouse in Uniondale, New York.

4. I have had a lengthy legal career, representing both plaintiffs and defendants in complex litigation of all types. In 2005, I joined the class action firm of Chitwood Harley Harnes LLP as partner and worked on securities fraud class actions and shareholder derivative cases while also running the firm's consumer class action practice. To give one example, while at Chitwood Harley, I led the plaintiff attorney team in *In Re: Epson Ink Cartridge Cases*, Judicial Council Coordination Proceeding No. 4347; (Superior Court of the State of California, County of Los Angeles) which settled shortly after a nationwide class of over 10 million members was certified in what is thought to be one of the largest pre-CAFA class action settlements.

5. In 2014, I joined the firm of Stueve Siegel Hanson, LLP ("Stueve Siegel") as partner, where I continued to focus on consumer class actions and ran the firm's New York office.

6. In 2015, I was able to secure a reversal of a decision in the Western District of Washington striking class allegations in a consumer class action in the United States Court of Appeals for the Ninth Circuit in *Baker v. Microsoft Corp.*, 797 F.3d 607 (9th Cir. 2015). A decision which was, unfortunately, reversed by the United States Supreme Court in *Baker v. Microsoft Corp.*, 582 U.S. 23 (2017).

7. In 2018, I founded KG as managing partner. The firm, with offices in both Carle Place, New York and Atlanta, Georgia, practices in the mass torts and class action space.

8. I am a member of the “National Trial Lawyers Top 100,” I have been a New York Metropolitan “Super Lawyer” for more than ten years and I am “AV” rated by Martindale-Hubbell.

9. While KG is a small firm, the members of KG bring a wealth of class action experience to this litigation. KG has a demonstrated willingness and ability to commit to a time-consuming litigation and settlement process; a demonstrated willingness and ability to work cooperatively with others; substantial professional experience in this type of litigation; and has access to sufficient resources to advance the litigation in a timely manner.

10. Throughout the prosecution of all its cases, KG advanced the costs to litigate the cases and the attorney time and effort to prosecute them, without litigation funding and with no guarantee of recovery, sometimes across decades. We stand prepared to do so again here.

### **THIS LITIGATION**

11. KG is the firm that filed *Yousefzadeh v. Johnson & Johnson Consumer, Inc.*, No. 2:23-CV-06825, the first-filed case in this District.

12. KG and co-counsel in *Yousefzadeh* were the first firms to propose MDL coordination in this District.

13. Over the last several months, KG has worked cooperatively and efficiently with co-counsel, including regular Zoom meetings, to begin to prepare this case, both procedurally and substantively, with a particular focus on legal strategy and anticipated legal and factual issues and we are fully prepared to litigate the case through to trial if necessary. I have experience working with several of the proposed members of this leadership slate.

14. I will ensure that this case is litigated effectively and efficiently, both internally and in cooperation with co-counsel without duplication of work and effort.

15. KG's New York office is less than 30 miles from 225 Cadman Plaza East and less than an hour and thirty minutes by train.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 18, 2024, in Carle Place, New York.



---

Darren T. Kaplan

# EXHIBIT 1



# Firm Resume



2727 Paces Ferry Road SE  
One Paces West, Suite 750  
Atlanta, Georgia 30339  
404.537.3300

346 Westbury Avenue  
Suite 200  
Carle Place, New York 11514  
212.999.7370

**WWW.KAPLANGORE.COM**

# KAPLAN GORE LLP

## THE FEROCIOUS PURSUIT OF JUSTICE



The members of **Kaplan Gore LLP** boast decades of experience at the highest level of the profession. They are driven by an unapologetically ferocious dedication to justice and a refusal to allow the wealthy and powerful to prey upon the poor and the weak with impunity. From a patient supplied with a defective medical product to consumers victimized by fraud, Kaplan Gore attorneys will not stop fighting until they have obtained redress for the wrongs our clients have suffered.

Kaplan Gore is a partnership of colleagues who share years of professional friendship and mutual admiration for each other's character and abilities.

Headquartered in Atlanta, Georgia, with additional offices in Long Island, New York, Kaplan Gore LLP has a national practice, litigating class actions and other complex legal matters in state and federal courts throughout the United States through its network of carefully selected co-counsel firms. The firm's attorneys' unequalled skill, expertise, and reputations, allow Kaplan Gore LLP to achieve superlative results, maximizing recoveries for its clients.



# Experience

## Experience Matters

The partners of Kaplan Gore began their relationship together as plaintiff's class action attorneys at the law firm of Chitwood Harley Harnes LLP, then one of the largest class action firms in the Southeastern United States.

Firm partners Darren Kaplan, Krissi Gore and Greg Keller have litigated class action, derivative and mass tort cases on behalf of plaintiffs throughout the United States. Combined, the three attorneys have more than 50 years of experience in class actions and have recovered close to a billion dollars for class members.



**Darren Kapan**  
Consumer Class  
Actions and Mass  
Torts

**Atlanta, GA; Carle Place, NY**



**Krissi Gore**  
Shareholder Class  
Actions and Mass  
Torts

**Atlanta, GA**



**Gregory Keller**  
Shareholder Class  
Actions and  
Derivative Litigation

**Carle Place, NY**

# Results

## Experience Drives Results

Kaplan Gore partners have played a significant role in obtaining some of the largest verdicts and settlements in the history of class action litigation.

These results have not only brought much-needed compensation to class members for their injuries, but they have also sent a powerful message to corporate America that shareholders and customers must be treated fairly and that unlawful and unconscionable conduct will not go unpunished.

---

### Selected Securities Class Action Settlements

<i>In re Airgate PCS, Inc. Sec. Litig.</i> Civil Action No. 1:02-CV-1291 (N.D. Ga.)	<b>\$2.5 million</b>
<i>In re Beazer Homes USA, Inc., Sec. Litig.</i> Civil Action No. 1:07-CV-725 (N.D. Ga.)	<b>\$30.5 million</b>
<i>In re BellSouth Corp. Sec. Litig.</i> Civil Action No. 1:02-CV-2142 (N.D. Ga.)	<b>\$35.0 million</b>
<i>Carpenters Health &amp; Welfare Fund v. The Coca-Cola Co.</i> Civil Action No. 1:00-CV-2838 (N.D. Ga.)	<b>\$137.0 million</b>
<i>In re Diamond Foods Sec. Litig.</i> Civil Action No. 11-cv-05386 (N.D. Cal.)	<b>\$96.1 million</b>
<i>In re Friedman's Inc. Sec. Litig.</i> Civil Action No. 1:03-CV-3475 (N.D. Ga.)	<b>\$14.9 million</b>
<i>In re Maxim Integrated Products, Inc., Sec. Litig.</i> Civil Action No. C-08-00832 (N.D. Cal.)	<b>\$173.0 million</b>
<i>In re Providian Financial Corp. Sec. Litig.</i> Master File No. C-01-3952 (N.D. Cal.)	<b>\$65.0 million</b>
<i>In re TyCom Ltd. Sec. Litig.</i> Docket No. 03-cv-1352 (D. N.J.)	<b>\$79.0 million</b>

---

## Selected Consumer Class Action Settlements

<i>Blahut v. Harris Bank, N.A.</i> 1:09-MD-02036 (S.D. Fla.)	<b>\$9.4 million</b>
<i>Case v. Bank of Oklahoma, N.A.</i> 09-MD-02036 (S.D. Fla.)	<b>\$19.0 million</b>
<i>Harris v. Associated Bank, N.A.</i> 1:09-MD-02036 (S.D. Fla.)	<b>\$13.0 million</b>
<i>In re the Home Depot, Inc., Customer Data Security Breach Litig.</i> MDL -02583 (N.D. Ga.)	<b>\$42.5 million</b>
<i>McKinley v. Great Western Bank</i> 1:09-MD-02036 (S.D. Fla.)	<b>\$2.2 million</b>
<i>Morton v. Greenbank</i> 11-135-IV (20 <sup>th</sup> Judicial Dist. Tenn.)	<b>\$1.5 million</b>
<i>Nelson v. Rabobank, N.A.</i> RIC 1101391 (Riverside County, CA)	<b>\$2.4 million</b>
<i>Orallo v. Bank of the West</i> 1:09-MD-202036 (S.D. Fla.)	<b>\$18.0 million</b>
<i>Swift v. BancorpSouth, Inc.</i> 1:10-CV-00090 (N.D. Fla.)	<b>\$24.0 million</b>
<i>Taulava v. Bank of Hawaii</i> 11-1-0337-02 (1st Cir. HI)	<b>\$9.0 million</b>
<i>Taylor v. JVC Americas Corporation</i> Civ. Case No. 07-4059 (D.N.J.)	<b>\$1.0 million</b>
<i>Trevino v. Westamerica Bank</i> CIV-1003690 (Marin Cnty. CA)	<b>\$2.0 million</b>
<i>Wolfgeher v. Commerce Bank, N.A.</i> 1:09-MD-2022036 (S.D. Fla.)	<b>\$18.3 million</b>